



March 4, 2008

Dr. John Mills, President
Paul Smith's College of Arts & Sciences
Route 86 & 30
PO Box 265
Paul Smiths, NY 12970

Certified Mail
Return Receipt Requested
7006 0810 0004 0521 6305

RE: Program Review Report
OPE ID: 00279500
PRCN: 200730226285


Dear Dr. Mills:

From May 14, 2007 to May 18, 2007 and July 9, 2007 to July 13, 2007, James Moore, and Jane Eldred, as representatives of the U.S. Department of Education, Federal Student Aid and Richard Lucey, Office of Safe and Drug Free Schools conducted a review of Paul Smith's College of Art & Science's (PSC's) administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The findings of that review are presented in the enclosed report.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the action required to comply with the statute and regulations. Please review the report and respond to each finding, indicating the corrective actions taken by PSC. The institution's response should be sent directly to Jane Eldred of this office within 90 calendar days of the date of this letter.

We would like to express our appreciation for the courtesy and cooperation extended during the review. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please contact Jane Eldred at 646-428-3753 or Jane.Eldred@ed.gov.

Sincerely,


Betty Coughlin

Team Leader

School Participation Team, NE

cc: Mary Ellen Chamberlain, Financial Aid Administrator

Financial Square, 32 Old Slip, 25th floor
New York, NY 10005-3534
www.FederalStudentAid.ed.gov
1-800-4-FED-AID

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Prepared for

**Paul Smith's College of Arts
& Sciences**



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FEDERAL STUDENT AID

OPE ID 00279500
PRCN 200730226285

Prepared by
U.S. Department of Education
Federal Student Aid
School Participation Team – New York/Philadelphia

**Program Review Report
March 4, 2008**

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A. Institutional Information

Paul Smith's College of Arts & Sciences
Route 86 & 30
PO Box 265
Paul Smiths, NY 12970

Type: Private Nonprofit

Highest Level of Offering: Bachelor's Degree

Accrediting Agency: Middle States - Higher Education

Current Student Enrollment: 921 Current Head Count, 907 Full Time Enrolled
(2007/2008)

% Of Students Receiving Title IV: 96% (2007/2008)

**Title IV Participation, Per U.S. Department of Education Data Base
(Postsecondary Education Participants System):**

2005/2006 Award Year

| | |
|--|--------------|
| Federal Family Education Loan Program | \$ 5,987,571 |
| Federal Pell Grant Program | \$ 857,049 |
| Federal Perkins Loan Program | \$ 194,000 |
| Federal Supplemental Education Opportunity Grant Program | \$ 173,762 |
| Federal Work-Study Program | \$ 251,475 |

Default Rate FFEL/DL: 2005 - 4.9 %
2004 - 5.5 %
2003 - 8.9 %

Default Rate Perkins: As of:
6/30/06 – 15.9%
6/30/05 – 32.4%
6/30/04 – 12.2%

B. The College

Paul Smith's College of Arts & Sciences (the College; PSC) is located approximately ½ hour west of Lake Placid, NY in a wilderness area. The College's 14,200-acre campus is situated on the shores of the Lower St. Regis Lake and is comprised of approximately 35 buildings on the main campus. The College has 907 full time students and offers both Bachelor's and Associate's degrees.

C. Background

On July 14, 2006 the U.S. Department of Education (the Department) received an inquiry from Senator Christopher Dodd's Office, concerning the College's compliance with the Drug-Free Schools and Campuses Regulations (EDGAR Part 86). The congressional inquiry noted that there might be discrepant information contained in the police reports surrounding an incident that occurred on February 6, 2005, and the required Biennial Review that the College had submitted to the Department.

According to the New York State Police report filed on February 6, 2005, a student and a visitor were killed when a snowmobile they were riding hit a lean-to constructed on an outcropping of land on Lower St. Regis Lake known as "Peter's Rock." The incident occurred while both individuals were attending a student-organized party and bonfire on the Lower St. Regis Lake, which was frozen. Police reports indicate that alcohol was a contributing factor in the deaths. The autopsy reports indicate that both were killed instantly as a result of multiple blunt force traumas and the driver of the snowmobile, age 20, had a blood alcohol content of .14 percent.¹ On Monday February 7, 2005, another PSC student was arrested for providing the driver of the snowmobile with alcohol.

D. Scope of Review

Jane Eldred and James Moore, Institutional Review Specialists of the U.S. Department of Education, Federal Student Aid, (the FSA Review Team), conducted a program review at Paul Smith's College of Arts & Sciences from May 14, 2007 to May 18, 2007 and July 9, 2007 to July 13, 2007. The initial focus of the Federal Student Aid review was to examine the College's compliance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), with particular emphasis on the alcohol violation disciplinary process. Once on site, it became apparent that our review needed to include determining the accuracy and completeness of all campus crime statistics reported for selected incident categories and compliance with all policy disclosure requirements.

¹ New York has a Zero Tolerance law that applies to a person under age 21 who operates a motor vehicle with a blood alcohol concentration (BAC) of .02% or more but not more than .07%.

Mr. Richard Lucey, an Education Specialist from the Office of Safe and Drug Free Schools examined the College's compliance with Part 86 of the Education Department General Administrative Regulations (EDGAR)—Drug and Alcohol Abuse on May 14, 2007. A summary of that portion of the review is included as Appendix A of this report.

The FSA review team examined the College's records related to campus safety including all incident reports that were maintained by the Campus Security Department for the calendar years 2004, 2005, and 2006. The FSA review team obtained and reviewed the student disciplinary files for students who were adjudicated under the College's disciplinary process during the same years.

The FSA team interviewed several institutional officials and students. Additionally, agency officials at the Department of Environmental Conservation (DEC) – Region 5 and The New York State Police Office, located in Ray Brook, NY were interviewed, because they actively patrol and have some regulatory authority over portions of the College's campus.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning the institution's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Paul Smith's College of Arts & Sciences of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

This report reflects initial findings. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination letter.

E. Findings

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations, and specify the actions to be taken by Paul Smith's College of Arts & Sciences to bring operations of the financial aid programs into compliance with the statutes and regulations.

#1 - Lack of Administrative Capability

Citation:

To begin and to continue to participate in any program under Title IV of the Higher Education Act of 1965, as amended, an institution must demonstrate that it is capable of

adequately administering the program under the standards established by the Secretary. The Secretary considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all statutory provisions of, or applicable to, Title IV of the HEA, and all applicable regulatory provisions prescribed under the statutory provisions, and has written procedures for or written information indicating the responsibilities of the various offices. These standards also include a requirement that the institution employ "an adequate number of qualified staff" 34 CFR § 668.16(b)(2) and the prescription that regulated activities are undertaken with appropriate "checks and balances" and in a system of "internal controls" 34 CFR § 668(c)(1). These standards apply to all aspects of the Title IV Program regulations including the Clery Act and the Department's implementing regulations at 34 CFR § 668.46.

Noncompliance:

The regulations that govern the Title IV, Federal Student Aid Programs establish certain standards that all participating institutions must maintain if they are to be deemed administratively capable. Several violations of the Clery Act were identified during the review. The findings detailed in this program review report show multiple indications that PSC lacked an adequate system of internal controls and administrative capability regarding compliance with the Clery Act during the review period. The violations are inter-related and show that PSC failed to report required statistics, failed to develop and adequately implement certain required policies, and otherwise failed to meet its responsibility to provide important security information to the campus community. These findings also demonstrate a lack of adequate institutional training, coordination, oversight, and supervision in PSC's campus security operations.

The team did not review any other aspect of PSC's compliance with Title IV regulations. The violations of the Clery Act identified in this report will be addressed using other available tools including the corrective action requirement outlined in this program review report. Compliance with the Clery Act is specifically referenced in the terms and conditions of the College's Program Participation Agreement (PPA). This PPA requirement can be found in the General Provision regulations at 34 CFR § 668.14 (c)(2)(i).

In addition to the specific findings of non-compliance, the FSA team identified weaknesses that contributed to the occurrence of these violations:

- 1) During the period under review, the College failed to appoint a qualified official with sufficient authority and training in charge of Clery Act compliance.
- 2) The College failed to provide or arrange for Clery Act training for relevant staff.

- 3) The College failed to adequately train security officers and Student Affairs/Residence Life staff on proper incident report writing techniques.
- 4) The College failed to establish a system that ensured standardization, custody, and control of important records needed to comply and document compliance with the Clery Act.

Impaired administrative capability increases the likelihood that the applicable statutes and regulations that govern the Title IV Programs will not be followed. With regard to the Clery Act, such impairment may result in an institution's failure to provide students and employees with important security information. Impaired administrative capability and weak internal controls are an indication that an institution lacks the ability or willingness to comply with Federal regulations.

Required Action:

The College is required to take all necessary corrective actions to cure the exceptions identified in this program review report. In addition, it must develop and implement a comprehensive system of policies and procedures to ensure that these findings do not recur. Additional instructions on the comprehensive corrective action plan are outlined in Section F of this program review report.

Based on the evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in the Final Program Review Determination letter.

#2 - Failure to Properly Disclose Crime Statistics

Citation:

Federal regulations require that participating institutions compile and publish statistics concerning the occurrence on campus of the following incidents: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose disciplinary actions related to violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1)

Noncompliance:

The College failed to report all required incidents in its Campus Security Reports for the years 2004 and 2005, as follows:

| Crime Classification | College Reported 2004 | Department of Education Determination 2004 | College Reported 2005 | Department of Education Determination 2005 |
|------------------------------|------------------------------|---|------------------------------|---|
| Manslaughter | 0 | 0 | 0 | 1 |
| Forcible Sex Offenses | 0 | 1 | 0 | 2 |
| Aggravated Assault | 0 | 0 | 1 | 4 |
| Burglary | 1 | 8 | 2 | 15 |
| Arson | 0 | 3 | 0 | 1 |
| Totals | 1 | 12 | 3 | 23 |

| Disciplinary Referrals | College Reported 2004 | Department of Education Determination 2004 | College Reported 2005 | Department of Education Determination 2005 |
|------------------------------------|------------------------------|---|------------------------------|---|
| Weapons Possession | 0 | 5 | 0 | 6 |
| Drug Law Violations | 3 | 7 | 4 | 19 |
| Liquor Law Violations (LLV) | 47 | 71 | 72 | 51* |

“*” – After the events of February 2005, College policy was modified to increase the involvement of the New York State Police (NYSP) in some LLV cases. ED’s determination of a lower number of 2005 LLV’s than PSC is a direct result of the team’s exclusion of any referral where the incident report made mention of involvement of the NYSP to reduce the possibility of double-counting. This was done even though the NYSP was not always called, and actually issued very few LLV citations on campus relative to the total number of alcohol-related cases.

- 1) The College lacks a sufficient system to adequately compile and maintain records so that they are accessible and useable for Clery reporting purposes. For example, 403 campus disciplinary files were not initially included among the documents provided pursuant to a request by the team.
- 2) Campus Security is not always notified when serious crimes are committed. PSC failed to follow its own procedures. The review team questioned College officials about a forcible sex offense that occurred in 2006 at a hotel dorm that was owned by the College. The incident was reported to a Resident Assistant (RA). The RA then reported the incident to the Chief Student Affairs Officer (CSAO). The RA and

CSAO were to notify the Campus Security Office and/or the Police Department when any such incident is reported on campus property. Campus Safety was not notified for 72 hours, and it is unclear when the Police were notified. In the interim, two Head Resident Advisors were notified and went to the hotel to interview the suspect.

College officials were unaware that this incident had to be reported for Clery purposes. Their reasoning was based on the fact that 1) the District Attorney did not have enough evidence to prosecute and 2) the College doubted the credibility of the victim. The team believes that the College included this incident when compiling the 2006 data; however, the review team also found a 2004 incident report with the same perpetrator and a different unreported victim.

- 3) Even when the proper College officials are notified and reports are generated, incidents are often misclassified resulting in improperly calculated crime statistics. To illustrate this point, the review team noted that there were 15 burglaries that should have been reported during 2005. Although the incident reports for these crimes documented very similar events, a variety of crime classifications such as theft, larceny, or stolen property were used at various times by various report writers.
- 4) Campus Safety and Student Affairs/Residence Life Incident Reports are poorly written and/or lack sufficient detail to determine if a Clery reportable crime occurred. Report formats did not capture all students who were present at an incident, nor did they document a student's birth date even for instances of underage drinking. The reports were also written to document whether there had been a violation of College policy and did not include the Clery Act requirements of reporting violations of the law. When the reports are written in a manner where this determination is not clear, accurate statistics cannot be tabulated. Reports must be objectively written and contain all the relevant facts so that the reader can readily determine whether a crime has occurred.
- 5) Campus Security and Student Affairs/Residence Life staff are not sufficiently trained on the Clery Act requirements. This conclusion is reached based on the reporting violations noted above.

Required Action:

As a result of this finding, the College is required to take all necessary corrective actions to cure the exceptions identified in this program review report. In addition, the College must develop and implement a comprehensive system of policies and procedures to ensure that these findings do not recur. Additional instructions on the comprehensive corrective action plan are outlined in Section F of this program review report.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#3 - Failure to Define the Campus and Report Separately for Non-Contiguous Locations in Accordance with Federal Regulations

Citation:

Federal regulations require institutions to compile and publish separate crime statistics for each location or facility. The Clery Act [see 34 CFR § 668.46 (c)(4)] establishes a four-part definition of campus that includes:

- 1) On Campus I: any building or property owned or controlled by the institution within the same reasonably contiguous geographical area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls;
- 2) On Campus II: any building or property owned by the institution that is within or reasonably contiguous to the area identified above, but is controlled by another person or entity;
- 3) Non Campus Property: any building or property owned or controlled by a recognized student organization; or any building or property owned and controlled by the institution as described in 1. above but is not in the same reasonably contiguous area; and,
- 4) Public Property: all public property that is within the boundaries of the campus or that is immediately adjacent to or accessible from the campus.

Generally, an institution must comply with the statistical reporting requirements for each administrative division, location, or property that is not in the same reasonably contiguous geographical area as the main location. 34 CFR § 668.46 (c)

Noncompliance:

The College has not defined its campus in accordance with the definition contained in Federal regulations. The College also did not comply with crime statistics reporting requirements for each separate campus or facility location. Specifically, PSC published a single set of statistics covering only the improperly defined main campus location.

A. Improper definition of campus. Paul Smith's College owns 14,200 acres of land in the North Country of New York State, which includes easements granted for the Adirondack National Park. The College still owns the easement land and is compensated by the state for the usage rights. While not all the acreage meets the definition of campus, because it is not used by the institution in direct support of, or in a manner related to, the

institution's educational purposes, substantial parts of the property that do meet the definition have been excluded.

The College offers programs in fields such as Forestry, Surveying, and Natural Resource Management. In its recruiting materials, PSC emphasizes its focus of "experiential learning" and states, "our 14,200-acre campus is the ideal setting for training students in outdoor careers."² Similarly, another publication describes, "14,200 Acre Campus: Just imagine a campus situated at the edge of a pristine lake, surrounded by the spectacular Adirondack Mountains... With 14,200 acres to explore, to play, to breathe and to grow, Paul Smith's living laboratory provides the freedom to create the life of your dreams."³ As illustrated above, parents, students, and other stakeholders are led to believe that the campus covers a large tract of land.

The College reported electronically very low crime statistics to the U.S. Department of Education and in its published campus security reports. However, for Clery Act purposes, the College defined its campus as including only a very small part of the 14,200 acres of land, essentially the portion of the property immediately bordering the Lower St. Regis Lake. This definition only includes the land adjoining the 10 administrative and classroom buildings, 12 dormitories, and parking areas for Clery Act purposes, which is also the only area that is routinely patrolled by PSC's campus safety officers. The College has also failed to properly include adjacent public property in its campus definition for Clery Act purposes.

The College's improper campus definition is one reason the death on February 5-6, 2005 was excluded from the College's report. This incident should have been reported and coded as an involuntary manslaughter. Even if the College determined that the death did not occur on campus grounds, it should have classified the death and the underlying crime as occurring on public property within the definition of campus.

B. Failure to Report Crimes for Non-Contiguous Locations. PSC failed to report crime statistics separately for non-contiguous locations. For example, the College owns and uses several other properties in direct support of or in a manner related to its educational purposes, which includes but is not limited to the Hotel Saranac, a dormitory, the Sugar Bush, and the Alumni Campground.

Required Action:

The College must review all property that it owns and/or controls, and re-define its campus to meet the criteria of the four-part definition of campus under the Clery Act. With its response, PSC must provide a copy of the revised policy that includes this

² "Let's Get Started," Page 4

³ "Its About the Experience: Experiential Learning, Experience Life," Page 2

definition and an accurate list of all properties that it currently owns and/or controls. This analysis must start immediately and be completed in advance of the preparation of the next annual campus security report.

Once the campus is properly defined the College must then take all necessary steps to ensure that all incidents of crime reported are included in the statistical disclosure section of all campus security reports. As part of this review, PSC must also develop and implement a program of internal controls that will ensure that crime statistics are reported separately for all non-contiguous locations.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#4 - Failure to Have an Adequate System for Collecting All Crimes Reported from All Required Sources

Citation:

Federal regulations require institutions to compile and publish accurate and complete statistics concerning the on-campus occurrence of the following incidents: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistical disclosure of arrests and disciplinary actions related to violation of Federal or state drug, liquor, and weapons laws are also required. To comply with these requirements, institutions must develop a system that allows for the collection of incidents of crime reported to any campus security authority. 34 CFR § 668.46 (c) (1) (B)

Noncompliance:

PSC did not gather statistics for incidents of reportable crimes from certain institutional sources in a manner sufficient to produce an accurate and complete Campus Security Report in accordance with the Act. This failure resulted in additional instances of underreporting and miscoding. Specifically, there was insufficient coordination and communication with Student Affairs/Residence Life, which resulted in deficient incident reports and disciplinary referral data. Some of the weaknesses identified include the following:

- 1) The Campus Security Office was not provided incident reports generated by Student Affairs/Residence Life staff in a timely manner to permit sufficient and timely investigation to determine if a reportable crime had occurred. In some cases, no information was provided to the Campus Security Office and in other cases; the reports provided only detailed violations of institutional policy and did not document the relevant facts to determine if a violation of law had occurred.

- 2) The Office of Student Affairs/Residence Life's protocol regarding the conditions and circumstances for contacting Campus Security was in flux throughout the review period. The offices could not agree on the kinds of incidents that should be resolved through the Student Affairs process with institutionally imposed sanctions and those that should be handled by the Campus Security enforcement process. The situation was complicated further after the events of February 2005 when it was decided that the New York State Police would be called in on most alcohol-related cases.
- 3) The relevant offices had no standardized report writing, coding, or control numbering systems in place during the review period. As a result, numerous accounts of the same event were frequently generated that could not be cross-referenced easily or otherwise linked to prevent contradictory accounts and duplicate counting of the same incidents. With regard to coding methodology, it appears that Campus Security was guided by UCR criteria while Student Affairs/Residence Life relied solely on the conduct standards published in the Community Guide.

These conditions have also contributed to the publishing and distribution of inaccurate and incomplete statistics of incidents of crime and disciplinary referrals. In addition to the conditions noted in item # 3 above, these records are filed by student offender, and are maintained only in hardcopy format. There is no tracking database or system of organization.

However, the FSA Review Team has noted that PSC's statistical reporting for 2006 did improve. The following chart illustrates the increases in reporting for 2006 in the following categories as reported by PSC:

| Incident Category | College Reported 2004 | College Reported 2005 | College Reported 2006 |
|-------------------------------|------------------------------|------------------------------|------------------------------|
| Forcible Sex Offense | 0 | 0 | 3 |
| Aggravated Assault | 0 | 1 | 5 |
| Burglary | 1 | 2 | 19 |
| Liquor Law Violations* | 47 | 72 | 147 |
| Drug Law Violations* | 3 | 4 | 25 |

“*” – Disciplinary Referrals

The increase in 2006 reporting is more in line with the team's review of source documents. For example, in an expanded sample of incident reports provided, the FSA Review Team identified eight burglaries in 2004 as opposed to one offense reported by PSC (See Chart on page 7 of this report.) Similarly, the FSA Review Team identified 71 liquor law violation (LLV) disciplinary referrals for 2004 as opposed to 47 reported by PSC.

To explain the increase in the number of incidents disclosed for 2006, the College included the following caveats in its electronic report to the Office of Postsecondary Education:

"Due to training and the implementation of more effective reporting and record-keeping systems the number of burglaries gives the appearance of being on the rise, we have no evidence that there is an actual rise in the number of incidents."

"Due to training and the implementation of more effective reporting and record-keeping systems accompanied by an increase in the student population the drug and liquor violations give the appearance of a rise, we have no evidence that there was an actual rise in the number."

The FSA Review Team does not agree with the statement relating to an increase of enrolled students contributed to the increase in reported crime statistics, the increase is not statistically significant. It is also noted that the Director of Campus Safety responsible for reporting the 2006 statistics has left the College. A new Director of Campus Safety will have the responsibility for implementing the corrective action required in this report.

Failure to coordinate information from all relevant sources and to compile, publish, and distribute accurate and complete crime data deprives the campus community of important security information.

Required Action:

PSC must establish policies and procedures for the gathering and compiling all incidents of crime reported to all internal and external campus security authorities. These policies and procedures must address access, communication, and coordination by institutional officials. A copy of the revised policies must be submitted with the College's response as part of the comprehensive action plan described in Section F of this program review report.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#5 - Failure to Distribute the Campus Security Report in Accordance with Federal Regulations

Citation:

Federal regulations require institutions to provide the report to all current students and employees through appropriate publications and mailing. This includes direct mailing to each individual through the U.S. Postal Service, by direct hand or campus mail distribution to the individual, or posting on the institution's Internet site. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request.

Federal regulations also require participating institutions to provide a notice to all prospective students and employees that gives a statement of the report's availability, its contents, and its exact electronic address if posted to an Internet site. This notice must also advise interested parties of their right to request a paper copy of the report and have it furnished upon request. 20 USC § 1092 (f) (1)

Noncompliance:

PSC did not distribute its Campus Security Report to all current students and employees, and did not adequately inform all prospective students and employees of the Report's availability. This finding is supported by a thorough review of publications typically provided to current and prospective students and employees. College officials failed to explain how the report was distributed or to provide documentation that an active distribution was undertaken prior to the recent reforms put in place. The review team learned during the interviews that no one directly received a copy of the report from the College. Statistical disclosures included in the 2006 CSR were available on the College's website. However, the complete report was not.

For prospective students, a newer publication, "Let's Get Started," is provided however, the notification included is not sufficient and no notification was ever provided to prospective employees. The Director of Human Resources confirmed this fact. At the College's request, the review team provided the following suggested language to bring PSC into compliance moving forward:

"Paul Smith's College is required to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). In accordance with the Clery Act, the College publishes annually a campus security report. We are required to advise applicants for employment of this report's

availability and provide a copy upon request. Applicants may obtain a copy of this report from the Office of Human Resources.”

Failure to actively distribute an accurate and complete campus security report to current students and employees and to notify prospective students and employees in accordance with Federal regulations deprives the campus community of important security information.

Required Action:

PSC must take all necessary steps to ensure that all current students and employees receive an accurate and complete copy of the annual campus security report.

In addition, PSC is required to add an accurate, complete, and conspicuous notification statement to its admissions and employment materials that are normally provided to prospective students and employees. This statement must give clear notice of what the Act requires the contents of the report, and the means by which the report can be acquired. A copy of all revised publications or forms containing the required notification language must be submitted with the College's response as part of the comprehensive action plan described in Section F of this program review report.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#6 - Failure to Maintain a Daily Crime Log

Citation:

Institutions with a police or campus security department must maintain “a written, easily understood daily crime log” listing all crimes that occurred 1) on campus including residence halls; 2) in a non-campus buildings or on non-campus property; 3) on public property; or 4) within the campus police or security department's patrol area that it becomes aware of or are reported to it. This reporting requirement applies to all crimes, not merely those crimes listed in 34 CFR §668.46 (c)(1) and (3). The log must include the nature, date, time, general location, and disposition of each offense. The crime log must be kept up to date and be freely accessible to any requestor. 34 CFR § 668.46 (f)

Noncompliance:

PSC failed to maintain an accurate and complete crime log in accordance with Federal regulations for the years under review. This finding is based on the institution's initial failure to provide crime logs pursuant to the team's request, and interviews conducted.

The team provided technical assistance regarding this requirement during the site visit. A crime log containing most of the required fields was prepared for 2005 and 2006. The log is organized by sequential incident numbers and the incident report date. However, because the 2005 crime log was not maintained as required, it contains inconsistent incident numbers and dates (e.g., Incident # 12586 is dated 1/26/2005; incident # 12929 is dated 1/27/2005; and incident # 12627 is dated 1/28/2005.) No log for 2004 or prior years was produced.

The Clery Act is a consumer information requirement intended to provide students, employees, and other stakeholders with vital information that they can use to make good safety decisions and effectively assist in providing for their own security. The crime log is especially important because it provides a timely information source, and supplements the long-view trend data in the campus security report's statistical disclosures. Failure to comply with the daily crime log requirement deprives the campus community of this vital security information.

Required Action:

PSC must review and revise its policies and procedures to ensure compliance with this requirement going forward. These revisions must provide for the designation of a capable official to ensure that the crime log is updated in an accurate and complete manner and that it is readily available to the campus community and general public for review upon request. A copy of the revised policies must be submitted with the College's response as part of the comprehensive action plan described in Section F of this program review report. Additionally, a copy of the 2007 and partial 2008 crime logs must be submitted with the institution's response.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#7 - Required Policy Statements Omitted from Campus Security Reports

Citation:

Federal regulations require institutions to include certain policy statements in their Campus Security Reports. These disclosures are intended to more fully inform the campus community about the institution's security policies and programs and the availability of resources and channels of recourse. In general, these policies cover topics such as the law enforcement authority and practices of the institution police or security force, reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention and adjudication must

also be disclosed. A notification to students must also be included in the report that advises the campus community that victims of sexual assaults may change their academic or living arrangements. 34 CFR § 668.46 (b)(2)

Noncompliance:

PSC failed to include certain required policy statements in its Campus Security Reports. None of the campus security reports that were examined included an explanation of how the institution prepares its annual disclosures. Additionally, the 2005 and 2006 reports did not include required disclosures regarding 1) procedures for voluntary, confidential reporting by counselors or 2) the existence of and access to the daily crime log.

Additionally, several of the included policies are not specific enough to give actual notice to users. For example, the separation of enforcement authority between Campus Security and Student Affairs/Residence Life is not clearly defined in terms of institutional policy or practice. Institutional officials and students interviewed during the site visit expressed frustration regarding the ill-defined roles of these offices.

Required Action:

In response to this finding, the College must take steps to ensure that all necessary policy disclosures are included in the next campus security report and a copy of the revised policies must be submitted as part of the corrective action plan detailed in Section F this report.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#8 - Hate Crime Statistics Not Included in Campus Security Reports

Citation:

Federal regulations require that Clery Act offenses that manifest evidence that a victim was intentionally targeted due to a suspect classification, status, trait or category covered by the Hate Crimes Statistics Act must be identified separately in the campus security report. Zeros should be reported for any bias category where there are no reported incidents in a year. Inclusion of the categories puts users of the report on notice that hate crime information is a required disclosure. 34 CFR § 668.46 (c) (3)

Noncompliance:

PSC did not include statistics identifying the number incidents of crime reported that manifested evidence of bias toward the victim by the perpetrator. Prior to the 2007 report, a

single line item for hate crimes was included but was not broken out by bias category. The 2007 report does not contain any statistics for hate crimes.

Required Action:

PSC must take all necessary steps to ensure that all required statistic disclosures of hate crime data are included in all campus security reports going forward. The corrective actions required in Section F of this report must provide for a system of internal and quality controls that will ensure that this type of finding does not recur.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

#9 - Crime Statistics Not Reported on a Calendar Year Basis

Citation:

Federal regulations require that all crime statistics in the annual campus security report must be compiled and reported on a calendar year basis. The original text of the Crime Awareness and Campus Security Act of 1990 called for the reporting of statistics on a fiscal year basis. However, it was determined that a calendar year based system would provide more uniformity and therefore, a better mechanism for meaningful comparisons by interested parties. This change was effected in Federal regulations in 1994. The calendar year requirement applies to all campus security reports due after September 1, 1995. 34 CFR 668.46 (c)

Noncompliance:

PSC did not compute and publish its crime statistics on a calendar year basis during the review period. For all campus security reports prior to October 1, 2007, the College reported its statistics beginning in September through the following August. Institutions also are required to report electronically to the Office of Postsecondary Education for the identical period. The use of different calendars for these reporting requirements would have the effect of the campus security report not reconciling with the electronic report, possibly confusing users of the data. In this case, the statistics appear to match, meaning that the improper period was used for both reports. It appears that the College properly calculated crime statistics for 2006 on a calendar year basis.

Required Action:

The College must conduct a comprehensive review of campus security policies and procedures and develop a corrective action plan that provides for a system of internal

controls to ensure crime statistics are reported on the correct schedule and that this type of finding will not recur. A copy of all revised policies and procedures must be submitted with the College's response.

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

F. Required Corrective Actions

The College must address the violations identified in all findings of this program review report. In its response, the College may concur with or challenge all or part of any finding. Additional information for consideration may be submitted with the College's response. The institution's response is due within 90 days from the date of the receipt of this program review report.

The College must conduct an institutional self-study of its Clery Act compliance during calendar years 2004, 2005, 2006, 2007, and year to date for 2008. PSC must appoint an institutional official with sufficient knowledge and authority to coordinate the self-study and act as the point of contact for the review team. The self study must include a comprehensive review of campus security policies and procedures with specific attention to the following:

- Identification of reportable incidents;
- Coding of incidents;
- Collection and compilation of statistics;
- Communication and coordination with internal and external offices and agencies;
- Preparation and publishing of the campus security report;
- Distribution of the campus security report; and,
- Documenting compliance with each requirement, such as developing databases and tracking systems to establish an audit trail.

At the conclusion of the self-study, the College must prepare a detailed report of its findings and submit it with its response. The purpose of this plan is four-fold: 1) identify past violations and weaknesses and their causes; 2) develop remedial measures; 3) implement long-term corrective actions; and, 4) provide a baseline and framework for on-going monitoring.

For each item, the following considerations should guide PSC's responses:

- 1) What was the stated policy or procedure in place at the time?
- 2) What was actually done notwithstanding the policy or procedure?

- 3) Who was responsible for carrying out the function and who was responsible for supervising that function? (Please identify individuals by position and not name)
- 4) Why did the violation or internal control weakness occur?
- 5) What policy or procedural change will be implemented to address this condition?
- 6) How will these changes be monitored and by whom?
- 7) What staffing, training or budgetary changes are needed to implement these changes?

Adequate responses must be given for each finding identified in this program review report as well as any additional violations or weaknesses identified as a result of the internal review. All responses must be detailed and state with particularity all violations and weaknesses as well as the personnel, policy, and procedural changes needed to bring the College into compliance. Please provide copies of any documents or records referenced in your response.

Please submit the institutional response to the School Participation Team at the following address:

U.S. Department of Education
Federal Student Aid
Financial Square
32 Old Slip, 25th Floor
New York, NY 10005-3534
Attn: Jane Eldred

Based on an evaluation of all available information including the institution's response, the team will determine appropriate additional actions and advise the College of these in our Final Program Review Determination letter.

One primary purpose of these requirements is to ensure that the campus security report due by October 1, 2008 is prepared and distributed in accordance with all Clery Act requirements. It is anticipated that the College will be required to modify its next campus security report to include revised statistics for 2004, 2005, 2006, and 2007. This report will be required to be distributed on the regular schedule. Additional information will be included in the Final Program Review Determination letter.

Questions and requests for recommendations and technical assistance should be directed to the review team. PSC may wish to review the Department's Handbook for Campus Crime Reporting available online at www.ed.gov/admins/lead/safety/handbook.pdf

Appendix A

On May 14, 2007, staff from ED's Office of Safe and Drug-Free Schools (OSDFS) participated in an on-site review of Paul Smith's College's compliance with Part 86 of the Education Department General Administrative Regulations (EDGAR)—Drug and Alcohol Abuse Prevention, in response to an inquiry from Senator Dodd's office on the school's compliance with ED's regulations. Jane Eldred and James Moore from ED's Office of Federal Student Aid also participated in the on-site review.

During the review, OSDFS staff met with President John Mills and interviewed Cheryl Culotta, director of student development, as the person directly responsible for the campus's alcohol and other drug abuse prevention efforts and overseeing the college's compliance with Part 86.

Part 86 of EDGAR requires, at a minimum, that each institution of higher education distribute the following in writing to all students and employees annually:

- Standards of conduct that clearly prohibit the unlawful possession, use, or distribution of illicit drugs and alcohol on school property or as part of any school activities
- A description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol
- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students
- A clear statement that the institution will impose sanctions on students and employees (consistent with local, state, or federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct

The regulations further require an institution of higher education to conduct a biennial review of its program:

- To determine its effectiveness and implement changes if they are needed
- To ensure that the sanctions developed are enforced consistently

OSDFS staff focused on these two requirements and their respective elements during the on-site review, and the following is a summary of the school's compliance with the regulations.

Annual Distribution of the School's Policy

The campus's policies related to alcohol and other drugs are included in Section 5 of the Paul Smith College's Community Guide (available at www.paulsmiths.edu/pdf/Current_Students/handbook.pdf). The guide is distributed by e-mail to all students, faculty, and staff members twice per year, at the beginning of the fall and spring semesters, from Mike Harrington, the school's chief student affairs officer. Policy information also is presented to all first-year students during mandatory orientation sessions.

A. Standards of Conduct

The college expresses clear expectations and standards for conduct in section 5.3 of the community guide. In this section, a legal context is presented and the school indicates that all members of the campus community are expected to comply with federal, state, and local laws, and includes topics related to the minimum legal drinking age, possession and distribution, dram shop and social host liability, and impaired driving.

Section 5 of the Community Guide also includes regulations related to institutionally sponsored events that are held both on and off campus. For example, section 5.6 expressly states that parties and events sponsored by student organizations or funded in whole or part by student activity funds are governed by the policies and procedures described in the policy, regardless of location on or off campus.

B. Legal Sanctions

The state-specific legal sanctions for the unlawful possession or distribution of illicit drugs and alcohol are included in a brochure that is sent by e-mail to all students twice a year (i.e., at the beginning of each semester). Since the campus is wired, all students, faculty, and staff members have a paulsmiths.edu e-mail address, so there is minimal chance that the information is not received by each member of the campus community.

C. Health Risks

The campus includes a list of health risks associated with the use of alcohol and other drugs in the brochure referenced above under Legal Sanctions. The information used in the brochure is adapted from the U.S. Department of Justice's Drug Enforcement Agency's publication *Drugs of Abuse* (www.usdoj.gov/dea/pubs/abuse/doa-p.pdf), which many campuses reference in developing their resources to comply with Part 86 of EDGAR.

D. Counseling, Treatment, or Rehabilitation

The college has a strong relationship with two off-campus agencies (St. Joseph's Outpatient Clinic and North Star Substance Abuse Services) for referral, counseling, and treatment services. The contact information for these two agencies is prominently included in the brochure referenced above under Legal Sanctions. Ms. Culotta explained that students' insurance likely covered expenses related to services provided at either of these two facilities.

E. Statement to Impose Sanctions

The college clearly states its intent to impose sanctions in section 5.1 of the community guide. Students that violate the policy are required to be assessed by a counselor, who either refers students to an off-campus treatment facility if there is a presenting alcohol or other drug problem, or requires the students to participate in an educational session and complete a worksheet on what they learned from the session. Students that violate the policy a second time are required to complete five educational sessions, and third-time violators are referred to mandatory outpatient treatment.

Biennial Review

Cheryl Culotta coordinates the biennial review process, which includes a nine-person committee that reviews and updates the required information every two years. The committee is represented by a variety of campus and community constituents, including the college president, provost, faculty, students, campus safety, residence life, human resources, and treatment facility.

The committee last conducted its biennial review in the summer of 2006 and covers the time period of fall 2003 through spring 2005. The biennial review is conducted via a series of meetings to examine the required components of the review to ensure their accuracy and currency.

To determine the effectiveness of its prevention program, the committee examines the results of a survey conducted every other year to identify prevalence rates and trends related to alcohol and other drugs. It is ED's recommendation that the committee look at a variety of sources, not just prevalence rates, to assess program effectiveness. For instance, the school should implement a mechanism by which the five mandatory educational sessions for second-time violators of the school's policy are effective and having a positive impact on the students required to attend the sessions.

The school also recently implemented brief motivational interview sessions for students that violate the campus's policy, based on national research, which indicates this strategy as being effective in preventing alcohol abuse among college students. The school should ensure that evaluation tools are implemented to gauge the effectiveness of these interventions to ensure that they are having the intended effect in preventing alcohol abuse among students.

The committee also reviews judicial referrals and disciplinary actions to ensure that the campus's sanctions are consistently enforced. A positive finding from this on-site review is that the school is developing a database to identify policy violations and subsequent sanctions. This database is being developed because a paper audit of students' disciplinary files found that sanctions were not being consistently enforced. The current biennial review addressed this concern and made a recommendation for more consistent enforcement, which includes annually training residence hall staff members who administer disciplinary sanctions.

Conclusion

Paul Smith's College recently formed a workgroup on underage drinking prevention, due in large part to a new statewide campaign launched by the New York State Office of Alcoholism and Substance Abuse Services (OASAS). Cheryl is the chairperson of the college consortia located in the North Country region of New York State, and as such, she also serves on OASAS's Statewide College Consortia Steering Committee. This connection with the state's agency on alcoholism and substance abuse, which is a recognized leader in alcohol and other drug abuse prevention among college students, is an asset and helps to ensure that the campus's prevention coordinator has access to current research and state-of-the-art strategies to improve the health and safety of Paul Smith College's students.

Based on the interview with Ms. Culotta and information reviewed during the site visit, the school is in compliance with the requirements outlined in Part 86 of EDGAR.